

**REMARKS**

Claims 1, 3, 5, 7, 9, 11, 13, 15, and 17 have been amended. New claims 19-27 have been added to the applicants' application to further protect the invention. Accordingly, claims 1-27 are pending in the present application.

Claims 1-18 were rejected by the examiner under the judicially created doctrine of obvious type double patenting. As none of these applications have yet been passed to issue, this rejection is premature under the MPEP. Applicants will submit a terminal disclaimer for any such obvious type claimed subject matter as appropriate after one of the listed patents has issued. Applicants appreciate the examiner raising this issue, and it will be dealt with as required by the PTO practice.

The claims have been rejected over Salvo et al., ('271) under 35 USC 103. The claims have been amended to obviate these rejections. This rejection, to the extent it applies to the newly amended claims, is respectfully traversed.

Claims 1, 7, and 13 have been amended to focus on the elements of obtaining information relating to the variable of historical performance of promotion products and the unusual variable of on-going competitor activity and how it impacts on-going sales. The on-going data relating to the amount of goods sold at the stores is used in combination with this information about competitor activity, such as a competitor promotion being run during part or all of the period of this store sales data, to generate an updated forecast of sales for a plurality of the stores in the supply chain. The element is then provided of making this forecast available to a supplier in the supply chain.

Note that competitor activity may reduce product sales, or depending on various factors like advertising, type of product being promoted by the competitor and competitor proximity, may drive sales to the stores. Because competitor activity will not be known in advance, information relating to such on-going competitor promotions and other activity is factored into the forecast after the promotion has started.

The element of competitor activity in combination with data on the actual amount of on-going store sales as factors in generating an updated store product sales forecast is not

disclosed or suggested by Salvo et al. Salvo et al. discloses a vendor being able to monitor raw material inventory (for example, by monitoring the raw material level in a silo) usage at a manufacturing site. Prices of the raw material are monitored in the marketplace, so that a raw material purchase may be made at a best price. See column 6, lines 13-27. Obtaining information relating to competitor promotions that happen to coincide with in-coming store sales data from multiple stores is not disclosed.

Claim 19 adds the element of charging a fee to the supplier based on number of products sold. This element is not disclosed. Note that a comparable system claim (claim 20) and computer program claim (claim 21) have likewise been added.

Comparable amendments have been made to the system claim set (claims 7-12), and the computer program claim set (claims 13-18). Thus, these claims are allowable for the reasons noted above.

Additionally, a dependent claim 22 has been provided that recites the additional elements of generating based at least in part on the data relating to the amount of goods sold by the stores a calendar of events at least in part for a planned promotion; and allowing to a plurality of members of the supply chain access to the calendar of events. These claim elements are directed to generating (which encompasses updating) a calendar of events for a promotion after receiving product sales data from a plurality of outlets of a supply chain. The purpose of this generating a calendar of events after receiving product sales data, is to allow mid-promotion changes of events based on the sales data. For example, based on the volume of product sales data, a calendar for the promotion may be generated to extend the promotion (sell-off time to get rid of inventory), or to cut short the promotion, or to extend or cut short when the signage (point of presence) for the promotion can/must be taken down from displays, or to extend the length of time for TV or radio or Web advertising, or to grant a shelf life extension, or to set a parameter for salvage. A number of these changes relate to minimizing inventory risk. The provision of access to such a calendar of events can serve as an alert to changes in the promotion based on the product sales data.

Referring to the cited Salvo reference, it does not disclose or suggest the concept of generating a calendar of events after receiving product sales data from supply chain outlets, much less doing this for a promotion.

A comparable dependent system claim (Claim 23) and computer program (claim 24) should be allowable for the same reasons set forth above.

Finally, new independent claims 25-27 have been added to the case. These claims are similar to the independent claims 1, 7 and 13, except that claim 25 includes the step of "collecting information relating to a plurality of variables including at least historical performance of promotion products and cannibalization of at least one product that is not a part of a promotion but is offered for sale at a same time as the promotion." Note that the aspect of cannibalization is discussed in applicants' specification at pages 39-41. Claims 26 and 27 include a comparable element in system and computer program format. The reference Salvo et al. does not disclose using as one of the plurality of variables cannibalization information for products not in the promotion.

Finally, it should be noted that Salvo takes data from and operates based on the point of view of the factory, and is principally concerned with avoiding over-orders of raw materials. To do this, Salvo focuses on monitoring raw materials amounts in receptacles in the factory. In contrast, the present claims focus on having visibility all the way out to multiple store point-of-sale data. Fundamentally, Salvo is more concerned with not over-ordering raw materials than it is on ensuring supply to a retail distribution network. Consequently, the claims highlight the fact that the forecast generated is forward-looking to a plurality of stores in the supply chain based on the sales data, rather than to monitoring a receptacle in a factory.

In view of the foregoing amendments and remarks reconsideration of the present rejection is requested and an early passage to issue of the case is solicited.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a

check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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